

2012 -- H 7497

=====
LC01351
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

—————
A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- HABITUAL OFFENDERS

Introduced By: Representative Michael J. Marcello

Date Introduced: February 09, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 31-40-2, 31-40-3 and 31-40-4 of the General Laws in Chapter 31-
2 40 entitled "Habitual Offenders" are hereby amended to read as follows:

3 **31-40-2. "Habitual offender" defined.** -- An "habitual offender" is any person, resident
4 or nonresident, whose record, as maintained in the office of the division of motor vehicles, shows
5 that the person has accumulated the convictions, or findings of delinquency or waywardness in
6 the case of juveniles, for separate and distinct offenses, described in subdivisions (1), (2), and (3)
7 of this section, committed within a ~~three (3) year~~ specified time period, provided that where more
8 than one included offense shall be committed within a six (6) hour period the multiple offenses
9 shall, on the first occasion, be treated for the purposes of this article as one offense, provided the
10 person charged has no record of prior offenses chargeable under this article, and provided further
11 that the date of the offense most recently committed occurs within ~~three (3) years~~ the specified
12 time period of the date of all other offenses the conviction for which is included in subdivision
13 (1), (2), or (3) of this section as follows:

14 (1) ~~Three (3)~~ Two (2) or more convictions, or findings of delinquency or waywardness in
15 the case of a juvenile, singularly or in combination, of the following separate and distinct offenses
16 arising out of separate acts within a ten (10) year period:

17 ~~(i) Voluntary or involuntary manslaughter resulting from the operation of a motor~~
18 ~~vehicle;~~

19 (i) Driving so as to endanger, resulting in death in violation of section 31-27-1;

- 1 (ii) Driving so as to endanger, resulting in personal injury in violation of section 31-27-
2 1.1;
- 3 (iii) Driving under the influence of liquor or drugs, resulting in death in violation of
4 section 31-27-2.2;
- 5 (iv) Driving under the influence of liquor or drugs, resulting in serious bodily injury in
6 violation of section 31-27-2.6;
- 7 (v) Duty to stop in accidents resulting in death in violation of subsection 31-26-1(d); or
8 (vi) Duty to stop in accidents resulting in serious bodily injury in violation of subsection
9 31-26-1(c).
- 10 (2) Three (3) or more convictions, or findings of delinquency or waywardness in the case
11 of a juvenile, singularly or in combination, of the following separate and distinct offenses arising
12 out of separate acts, within a five (5) year period:
- 13 (i)(~~ii~~) Driving or operating a motor vehicle while under the influence of liquor or drugs
14 in violation of section 31-27-2;
- 15 (ii) Refusal to submit to a chemical test in violation of section 31-27-2.1;
- 16 (iii) Duty to stop in accidents resulting in personal injury in violation of subsection 31-
17 26-1(b);
- 18 (iv) Duty to stop in accidents resulting in damage to vehicle in violation of section 31-26-
19 2.
- 20 (v)(~~iii~~) Driving a motor vehicle while his or her license, permit, or privilege to drive a
21 motor vehicle has been suspended or revoked in violation of section 31-27-2.1 or chapter 11 of
22 this title;
- 23 (vi)(~~iv~~) Willfully operating a motor vehicle without a license;
- 24 (vii)(~~v~~) Knowingly making any false affidavit or swearing or affirming falsely to any
25 matter or thing required by the motor vehicle laws or as to information required in the
26 administration of the laws;
- 27 ~~(vi) Any offense punishable as a felony under the motor vehicle laws of Rhode Island or~~
28 ~~any felony in the commission of which a motor vehicle is used;~~
- 29 ~~(vii) Failure of the driver of a motor vehicle involved in an accident resulting in the~~
30 ~~death or injury of any person to stop close to the scene of the accident and report his or her~~
31 ~~identity in violation of section 31-26-1; or~~
- 32 ~~(viii) Failure of the driver of a motor vehicle involved in an accident resulting only in~~
33 ~~damage to an attended or unattended vehicle or other property in excess of one hundred fifty~~
34 ~~dollars (\$150) to stop close to the scene of the accident and report his or her identity or otherwise~~

1 ~~report the accident.~~

2 ~~(3)(2)~~ Six (6) or more convictions, or findings of delinquency or waywardness in the
3 case of a juvenile within a three (3) year period, of separate and distinct offenses, singularly or in
4 combination, in the operation of a motor vehicle which are required to be reported to the division
5 of motor vehicles and the commission of which requires the division of motor vehicles or
6 authorizes a court to suspend or revoke the privilege to operate motor vehicles on the highways of
7 this state for a period of thirty (30) days or more, and the convictions shall include those offenses
8 enumerated in paragraph ~~(1)(ii)~~ (2)(i) of this section when taken with and added to those offenses
9 described in this section.

10 ~~(4)(3)~~ The offenses included in ~~subdivisions (1) and (2)~~ subdivision (3) of this section
11 shall be deemed to include offenses under any valid town or city ordinance paralleling and
12 substantially conforming to the state statutory provisions cited in ~~subdivisions (1) and (2)~~
13 subdivision (3) of this section and all changes in or amendments of them, and any federal law,
14 and law of another state or any valid town, city, or county ordinance of another state substantially
15 conforming to those statutory provisions.

16 **31-40-3. Transcript or abstract of conviction record.** -- The ~~administrator of~~ superior
17 court, district court or the division of motor vehicles shall certify three (3) copies of conviction or
18 transcripts or abstracts of the conviction record as maintained in the office of the division of
19 motor vehicles of any person whose record brings him or her within the definition of an habitual
20 offender, as defined in section 31-40-2, to the attorney general. The transcript or abstract shall be
21 prima facie evidence that the person named in it was duly convicted or found delinquent or
22 wayward in the case of a juvenile, by the court wherein the conviction or finding was made, of
23 each offense shown by the transcript or abstract. If the person shall deny any of the facts as stated
24 in it, he or she shall have the burden of proving that the fact is untrue.

25 **31-40-4. Complaint to be filed by attorney general.** -- The attorney general upon
26 receiving the habitual offender transcripts or abstracts from the administrator of the division of
27 motor vehicles or copies of conviction from the superior or district court shall immediately file a
28 complaint against the person named in it in the district court having jurisdiction of criminal
29 offenses in the city or town in which the person resides. In the event the person is a nonresident of
30 this state, the attorney general shall file a complaint against the accused person in the district
31 court of the sixth judicial district.

32 SECTION 2. This act shall take effect upon passage.

=====
LC01351
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO MOTOR AND OTHER VEHICLES -- HABITUAL OFFENDERS

- 1 This act would amend the definition of and requirements which classify a person as a
- 2 “habitual offender” for the purpose of motor vehicle offenses.
- 3 This act would take effect upon passage.

=====
LC01351
=====